SUPREME COURT OF THE UNITED STATES.

No. 35.

JOHN WATTS, COMPLAINANT AND APPELLANT,

VERSUS

JOHN WADDLE AND WILLIAM LAMB.

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district court of the United States for the eastern district of Louisiana; and that to his official attestations as such, full faith and credit are due; and further, that the attestation to said transcript is in due form of law.

In testimony whereof, I have hereunto signed my name, at the city of New Orleans, this 4th day of February, 1830.

SAMUEL H. HARPER.

SUPREME COURT OF THE UNITED STATES.

No. 35.

JOHN WATTS, COMPLAINANT AND APPELLANT,

VERSUS

JOHN WADDLE AND WILLIAM LAMB.

ON APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE OHIO DISTRICT.

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Pleas begun and held at the court-house, in the town of Columbus, on Monday, the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and of the independence of the United States the fifty-fourth, before the Honorable John M'Lean and John W. Campbell, Judges of the Circuit Court of the United States in and for the seventh circuit and district of Ohio.

JOHN WATTS, complainant,
versus
JOHN WADDLE AND WILLIAM LAMB, respondents. } *Chancery.*

Be it remembered, that heretofore, to wit, on the eighteenth day of October, in the year of our Lord one thousand eight hundred and twenty-six, and in the fifty first year of the independence of the United States of America, came John Watts, by William Creighton, junior, his attorney, and filed in the clerk's office of said court a bill in chancery, with an allowance of the writ of injunction, against John Waddle and William Lamb, which said bill and allowance is in the words and figures following, to wit:

To the Honorable the Judges of the Ciruit Court of the United States in and for the Seventh Circuit and District of Ohio, in chancery sitting:

Humbly complaining, respectfully states to your honors, your orator, John Watts, a citizen of and resident in the State of Virginia, that, on or about the first day of November, A. D. 1815, your orator made and executed to one William Lamb, a citizen of and resident in the State of Ohio, a certain covenant in writing, for the sale and conveyance of several lots or or parcels of land in the same mentioned, a copy of which said covenant is filed herewith, and prayed to be made part hereof.

At the time of said sale your orator was prosecuting a suit for the survey including the said lands, as appears by said covenant, and bound himself to convey, at the termination of said suit, being under the confident impression that the defendants in said suit, or some of them, held the legal title to the said land. Your orator states that the said William Lamb was in the possession of the said land at the time of the said contract, and still occupies the same free and unmolested, and as your orator is informed and believes, intimated to Cadwallader Wallace, your orator's agent in Chillicothe in this district, a wish that the execution of the conveyance might be deferred. And your orator states that a final decree was never obtained by him in the matter aforesaid, until some time about the month of September, in the year 1821; and that it was not until some time in the year 1818 that he discovered that the legal title to the said land had never emanated; that he immediately took the most diligent steps to obtain a patent for the said land, which he finally obtained about the first day of March in the present year, which he now files herewith as part of this bill. But now, so it is, may it please your honors, the said William Lamb, with the intent of injuring your orator, about the third day of January, A. D. 1824, assigned the said covenant to one John Waddle, who is also a citizen of the State of Ohio, and who, when your orator happened to be in the county of Ross, in said State of Ohio, some time in that year, instituted a suit for damages on said covenant in the court of common pleas of said county against your orator, which suit your orator removed to this honorable court, pursuant to the act of

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Congress, and at the last July term thereof, being unable, as he was advised, to make his defence at law, submitted to a judgment against him in the premises brought by the said Lamb for the use of said Waddle, for the sum of seven thousand seven hundred and forty-five dollars and fifty cents, damages and costs. Your orator represents, that, at an early day after obtaining his said patent, and being (as he charges the fact to be) seized of ample and sufficient title to the land, to wit, on or about the third day of July in the present year, having prepared and executed a deed of conveyance in favor of said John Waddle for the premises in the said covenant mentioned, he caused the same to be tendered to him before the said July term, and offered to pay the costs of the suit as far as it had progressed, but the said John Waddle wholly refused to accept said deed, and said he would urge his said suit, and accordingly has obtained judgment as aforesaid, which he now threatens to enforce; all which is contrary to equity, and tends to the oppression of your orator. In tender consideration whereof, and in as much as your orator is remediless in the premises by the strict rules of the common law, and can only be relieved in this court as a court of equity: to the end, therefore, that the said John Waddle and William Lamb, (both of whom your orators pray may be made defendants to the bill,) may, on their solemn oaths, full, true, direct, and perfect answer make to all the matters aforesaid, as minutely as herein again particularly interrogated, the premises considered: and as your orator annexes hereto the deed so by him made and tendered as aforesaid, and again offers that, or such other deed or assurance in the law as your honors may direct him to execute to said defendants, or either of them, he prays your honors to enjoin the said defendants, and each of them, from proceeding on said judgment at law, until your orator can be heard in this honorable court, and finally to enjoin said judgment perpetually.

May it please your honors to grant the writs of subpœna and injunction, together with all such other and further relief in the premises as the circumstances of his case may require and to your honors shall seem just; and your orator, as in duty bound, will ever pray, &c.

WM. CREIGHTON, Jun., *S. P. Qr.*

STATE OF OHIO, ROSS COUNTY, set.

Personally appears before me, the subscriber, a justice of the peace in and for the county aforesaid, John Watts, the complainant named in the foregoing bill, and, being by me duly sworn, says that the matters in said bill, so far as stated from his own knowledge, are true, and so far as stated from the knowledge of others, he believes them to be true.

JOHN WATTS.

Sworn to and subscribed before me, this 27th September, 1826.

THOMAS ORR, *J. P.* [SEAL.]

Sinking Spring, District of Ohio, Oct. 10th, 1826.

Let all other and further proceedings be staid on the execution within named until the next session of the U. S. circuit at Columbus, provided the application herein contained has been made in due time.

C. W. BYRD, [SEAL.]

District Judge of the United States in and for the District of Ohio.

(Exhibits referred to in the aforegoing bill, to wit:)

I, John Watts, of Bedford county, in the State of Virginia, have this day sold unto William Lamb, of the town of Chillicothe, in the State of Ohio, twenty-two out lots in the said town of Chillicothe, estimated to contain four acres each, known and distinguished on the recorded plat or plan of the said town by the numbers following, 70, 83, 109, 84, 108, 97, 107, 104, 106, 82, 85, 95, 102, 81, 72, 67, 100, 101, 93, 94, 87, and 88, and the east half of out lot No. 110, and also four acres and one-third of an acre adjoining the out lots No 106 and 107, bounded and described as follows: beginning in Joseph Kerr's line, 3 poles distant from two sycamores, on the bank of the river, upper corner to said Kerr's land, thence south 15° E to the northeast corner of out lot No. 106, thence S. 75° W. to the northwest corner of out lot No. 107, thence N. 15° so far that a line to the beginning will include the quantity for which said twenty-two out lots, the east half of out lot No. 110, and the said four and one-third acres of land, amounting (agreeably to estimation) in all to ninety-four acres and one-third of an acre; the said Lamb hath this day paid me the sum of four thousand seven hundred and sixteen dollars and sixty-six and two-thirds cents, being the full amount of sale. Now, therefore, this instrument of writing witnesseth, that I am bound, and I do hereby bind myself, to convey unto the said William Lamb, on the first day of February next, or so soon as a final decree is rendered by the United States circuit court for the district of Ohio, in the suit now depending in that court, wherein I am complainant and Nathaniel Massie and others are defendants, by a good and sufficient general warranty deed of conveyance, the aforesaid out lots numbered seventy, eighty-three, one hundred and nine, eighty-four, one hundred and eight, ninety-seven, one hundred and seven, one hundred and four, one hundred and six, eighty-two, eighty-five, ninety-five, one hundred and two, eighty-one, seventy-two, sixty-seven, one hundred, one hundred and one, ninety-three, ninety-four, eighty-seven, eighty-eight, and the east half of out lot numbered one hundred and ten, and also the said four acres and one third of an acre; as witness my hand and seal the first day of November, 1815.

JOHN WATTS, [SEAL.]

Attest, CADWALLADER WALLACE.

For a valuable consideration, the receipt of which is hereby acknowledged, I do hereby assign and transfer unto John Waddle, his heirs and assigns, all my right, title, interest, and claim, of, in, and to the within title bond; and desire that John Watts, his heirs, executors, &c., make to the said John Waddle, his heirs or assigns, a deed or deeds for the lots and land therein mentioned. Witness my hand and seal this third day of January, in the year of our Lord, 1824.

WM. LAMB, [SEAL.]

Test, JOSEPH KERR.

John Quincy Adams, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that, in consideration of military service performed by Ferdinand O'Neal, for three years a captain to the United States in the Virginia on continental establishment, and in pursuance of an act of the Congress of the United States, passed on the tenth day of August, in the year 1790,

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entitled, "An act to enable the officers and soldiers of the Virginia line on continental establishment to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Scioto," and other acts of the said Congress amendatory to the said act, there is granted by the United States unto John Watts, a certain tract of land containing one thousand acres, situate between the Little Miami and Scioto rivers, northwest of the river Ohio, as by survey bearing date the 21st day of July, in the year 1825, and bounded and described as follows, to wit: Survey of one thousand acres of land on part of a military warrant, No. 1387, (which survey was made conformably to a decree of the Supreme Court of the United States,) on the Scioto river, beginning at two small elms and a white thorn bush, upper corner on the river to Robert Powell's entry, No. 503, thence up the river and binding thereon as it meanders, north forty-nine degrees west nineteen poles, north forty-eight and a half degrees west twenty-nine poles, crossing the head of a thoroughfare or a run of the river to the main bank, thence north two degrees east nine poles, north thirty-five degrees thirty minutes west thirty poles, north forty-eight degrees west twenty-two poles, north forty-three and a half degrees west fourteen poles, north forty-three degrees west thirty-eight poles, north sixty-seven and a half degrees west fourteen poles, north eighty-eight and a half degrees west sixteen poles, south sixty-five degrees west twenty-six poles, south sixty-two and a fourth degrees west twenty poles eleven links, south fifty-four and a half degrees west thirty-eight and a half poles, south fifty degrees west fifty-six poles, south fifty-five degrees west thirty-six poles, south sixty-four and three-fourths degrees west thirty-eight poles, south seventy-two degrees west thirty poles, south seventy-three and a half degrees west thirty-six poles, south sixty-six and a half degrees west five poles nine links, west twenty poles, south eighty-four degrees west thirty-poles, south seventy-two degrees west seventy-six poles, south fifty-seven degrees west seventeen poles to a stake at the abutment of the Chillicothe bridge, bearing north forty-one degrees forty-five minutes east four poles eight links from the northeast corner of the house of the Chillicothe brewery, thence south four degrees thirty-seven minutes east five hundred and one poles four links, crossing a thoroughfare or mill dam at four hundred and twenty-six poles, and Paint creek at four hundred and seventy-five poles to four box elders, thence north eighty-five degrees twenty-three minutes east two hundred and fifty-eight poles eleven links, crossing the creek at one hundred and eighty-four poles, and a thoroughfare or a run of the creek at one hundred and ninety-two poles, to a stake in the back line of Powell's said entry, thence with said line north forty-one degrees thirty-two minutes west two hundred and fifty-two and three-fourth poles to a stake, from which a honey locust eighteen inches diameter bears south seventy and a half degrees east four poles seven and a half links, upper back corner to said entry, thence with the upper line thereof north forty-eight degrees twenty-eight minutes east five hundred and two poles, crossing the said thoroughfare or arm of the river to the beginning, with the appurtenances; to have and to hold the said tract of land, with the appurtenances, unto the said John Watts and his heirs and assigns for ever.

In testimony whereof, the said John Quincy Adams, President of the United States of America, hath caused the seal of the general land office to be hereunto affixed, and signed the same with his hand, at the city of Wash-

ington, the first day of March, in the year of our Lord 1826, and of the independence of the United States the fiftieth.

By the President, J. Q. ADAMS.

GEO. GRAHAM,
Commissioner of the General Land Office.

I certify that Ferdinand O'Neal was originally entitled to the bounty land granted by the within patent.

GEO. GRAHAM, *Com.*

General Land Office, March 9th, 1826.

(Endorsement.)

Recorded volume XI., page 502.

This indenture, made this 25th day of May, in the year of our Lord one thousand eight hundred and twenty-six, between John Watts and Betsy his wife, of the county of Bedford and State of Virginia, of the one part, and John Waddle, assignee of William Lamb, of the county of Ross and State of Ohio, of the other part, witnesseth, that the said John Watts and Betsy his wife, for, and in consideration of the sum of four thousand seven hundred and sixteen and two-thirds dollars, current money of the United States of America, to them in hand paid, the receipt whereof they do hereby acknowledge, and for ever acquit and discharge the said John Waddle, his heirs, executors, and administrators, have granted, bargained, sold, aliened, and confirmed, and by these presents do grant, bargain, sell, alien, and confirm, unto the said John Waddle, his heirs and assigns for ever, all those tracts or parcels of land, lying and being in the county of Ross in the State of Ohio, within the limits of the town of Chillicothe, to wit, twenty-two out lots of the said town, known and distinguished on the recorded plat thereof by the numbers following, to wit: sixty-seven, seventy, seventy-two, eighty-one, eighty-two, eighty-three, eighty-four, eighty five, eighty-seven, eighty-eight, ninety-three, ninety-four, ninety-five, ninety-seven, one hundred, one hundred and one, one hundred and two, one hundred and four, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, each containing four acres; also the east half of the out lot of the said town of Chillicothe, numbered one hundred and ten, containing two acres, and also four acres and two thirds of an acre of land, adjoining the out lots numbered one hundred and six and one hundred and seven, on the north sides thereof, beginning at the northeast corner of number one hundred and six, thence south seventy-five degrees west to the northwest corner of number one hundred and seven, thence north fifteen degrees west, and from the beginning north fifteen degrees west, equal distances for quantity; together with all improvements, water courses, profits, and appurtenances whatsoever, to the said premises belonging, or in any wise appertaining, and the reversions, remainders, and profits thereof, and all the estate, right, title, interest, property, claim, and demand of them, the said John Watts and Betsy his wife, of, in, and to the same; to have and to hold the lands hereby conveyed, with all and singular the premises, and every part and parcel thereof, with every of the appurtenances, unto the said John Waddle, his heirs and assigns, for ever, to the only proper use, benefit and behoof of him, the said John Waddle, his heirs and assigns.

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for ever; and the said John Watts and Betsy his wife, for their heirs, executors, and administrators, do covenant, promise, and agree, to and with the said John Waddle, his heirs and assigns, by these presents, that the premises before mentioned now are, and for ever hereafter shall remain, free of and from all former and other gifts, grants, bargains, sales, dowers, right, and title of dower, judgments, executions, titles, troubles, charges, and incumbrances whatsoever, done or suffered to be done, by them the said John Watts and . And the said John Watts, and Betsy his wife, and their heirs, all and singular the premises hereby bargained and sold, with the appurtenances, unto the said John Waddle, his heirs and assigns, against them the said John Watts and Betsy his wife, and their heirs, and all and every other person or persons whatsoever, do, and will warrant, and for ever defend by these presents. In testimony whereof, they, the said John Watts and Betsy his wife, hereunto set their hands and seals the day and year above written.

JOHN WATTS, [SEAL.]
BETSY WATTS, [SEAL.]

Signed, sealed, and delivered, in the presence of
JOHN L. COBBS,
JOSEPH SLAUGHTER.

BEDFORD COUNTY, to wit:

We, Joseph Slaughter and John L. Cobbs, justices of the peace in the county aforesaid, in the State of Virginia, do hereby certify that John Watts, a party to a certain deed bearing date the twenty-fifth day of May, 1826, and hereunto annexed, personally appeared before us, in our county aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of Ross county in the State of Ohio, in order that the said deed may be recorded.

Given under our hands and seals this 25th day of May, 1826.

JOSEPH SLAUGHTER, [SEAL.]
JOHN L. COBBS, [SEAL.]

BEDFORD COUNTY, to wit:

We, Joseph Slaughter and John L. Cobbs, justices of the peace in the county aforesaid, in the State of Virginia, do hereby certify that Betsy Watts the wife of John Watts, parties to a certain deed bearing date the twenty-fifth day of May, 1826, and hereunto annexed, personally appeared before us, in our county aforesaid, and being examined by us privily and apart from her husband, and having the deed aforesaid fully explained to her, she, the said Betsy Watts, acknowledges the same to be her act and deed, and declared that she wished not to retract it.

Given under our hands and seals this 26th day of May, 1826.

JOSEPH SLAUGHTER, [SEAL.]
JOHN L. COBBS, [SEAL.]

VIRGINIA, BEDFORD CLERK'S OFFICE, set.

I, James C. Stepwe, clerk of the court of said county, do hereby certify that Joseph Slaughter and John L. Cobbs, whose signature is affixed to the two preceding certificates of acknowledgment of John Watts and Betsy his wife, to a deed of conveyance to John Waddle, assignee of William Lamb, are, and were at the time of their signatures aforesaid, acting justices of the

peace in and for the county aforesaid, duly commissioned and qualified, and that full faith and credit is and ought to be given to their official acts.

In testimony whereof, I have hereunto set my hand and affixed my seal of office this 25th day of May, 1826.

J. C. STEPWE, *Clk.*

BEDFORD COUNTY, ss.

As presiding justice of the peace in and for the said county, I hereby certify that James C. Stepwe, whose signature is affixed to the preceding certificate, is clerk of said county court; that the same is in due form of law, and that full faith and credit is and ought to be given to his official acts. Certified under my hand this 26th day of May, 1826.

SAM. HANCOCK.

And thereupon the following writ of subpœna in chancery issued out of the clerk's office of the court aforesaid, directed to the marshal of the district of Ohio, in the words and figures following, to wit:

THE UNITED STATES OF AMERICA, DISTRICT OF OHIO, set.

To the Marshal of said district, greeting:

We command you to summon John Waddle and William Lamb, citizens of and residents in the State of Ohio, if they be found in your bailiwick, to appear before the judges of the circuit court of the United States for the seventh circuit and district of Ohio aforesaid, at Columbus, on the fourth Monday in the month of December next, to answer a certain bill in chancery, exhibited against them by John Watts, a citizen and resident in the State of Virginia; and this they shall in nowise omit under the penalty of the law; and have then there this writ.

Witness the Honorable John Marshall, Chief Justice of the United States, this 20th day of October, 1826, and in the 51st year of the independence of the United States of America.

Attest, WM. KEY BOND, *Clerk.*

(Endorsement.)

The object of the bill is to enjoin the defendants from executing a judgment at law, obtained by the defendants against the complainants, at July term of the circuit court of the United States, 1826.

Attest, WM. KEY BOND, *Clerk.*

At which said fourth Monday of December, being the twenty-fifth day of the same month, in the year of our Lord one thousand eight hundred and twenty-six, and the return day of the aforegoing writ of subpœna, comes into the court here the complainant, by his counsel aforesaid, and the marshal of said district, to whom the said writ was in form aforesaid directed, and makes return of the same, with the following endorsement thereon, to wit, "I have summoned the defendants, October 23d, 1826, by copies.

For WILLIAM DOHERTY, *Marshal,*
William Vance, Dep. Marshal."

And thereupon, on motion of the complainant, by his counsel, the injunction allowed in this cause during the last vacation is continued. And after-

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wards, to wit, at January rules, in the year of our Lord one thousand eight hundred and twenty-seven, came the complainant, by his solicitor, and a rule is granted for the said defendants to plead in ninety days, or decree pro confesso, and this cause is continued. And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and twenty-seven, come again into court here the said complainant, by his counsel aforesaid, and also came the respondents, by their solicitor, and, on their motion, the decree pro confesso, entered in this cause, is set aside, and thereupon filed their answers as follows, to wit:

The answer of John Waddle to the bill of complaint exhibited against him and William Lamb, on the chancery side of the Circuit Court of the United States for the seventh circuit and district of Ohio, by John Watts.

This respondent, saving and reserving to himself all and all manner of benefit of exception to the many untruths, imperfections, and errors in the said complaint contained, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, answering, says:

That he begs leave to refer to the answer of his co-respondent, William Lamb; that he incorporates the same into, and makes the said answer of the said Lamb a part of this his answer, alleging and stating that the said answer contains a true and perfect statement of the facts. And this respondent insists that it was the bounden duty, both at law and equity, of the said complainant, after the January term, 1818, of this honorable court, at which a final decree was rendered in the said chancery, Watts *vs.* Massie and others, to make a perfect and secure title, both at law and in equity, and the premises to the said William Lamb. This respondent, further answering, says, that the said Lamb did, for a valuable consideration, assign the said contract specified in the said bill, between the said Watts and William Lamb to this respondent, and at the time set forth in the endorsement of the said assignment made on the original contract. That he, the said Watts, had failed to comply with the terms of the said contract, he, this respondent, within a short time after the execution of the assignment aforesaid, instituted a suit at law in the court of common pleas of the county of Ross against the said Watts, for breach of the covenants contained in the said contract, in the name of the said Lamb and for the use of this respondent; which cause was removed by the said Watts into the United States circuit court for the district of Ohio, wherein the said Lamb, for the use of this respondent, recovered the judgment in bill of complaint mentioned against the said Watts. This respondent, further answering, states, that, on the fourth day of December, 1824, or thereabouts, he caused notice in writing to be served on the said Watts, that he would yield up possession of the said premises mentioned in the contract between Watts and Lamb, to the said Watts or to any person to whom he should authorize possession to be delivered; that the suit at law was instituted on the 26th October, 1824, which the respondent is under the impression, (and so alleges the fact to be,) was during the time of the first visit of the complainant to this State, after the execution of the same assignment by the said Lamb to this respondent. This respondent, further answering, admits that Matthew Bonner, some time during the last year, called upon this respondent and offered to him a deed of the premises confirmed in the con-

tract between Watts and Lamb, executed by Watts, and at the same time exhibited a patent, as this deponent thinks, of the O'Neal survey, and representing himself as the agent of Watts or Wallace, Watts's agent offered the costs of the suit at law should be paid; but this respondent declined accepting the said deed, not considering himself bound at that late period to accept a deed, nor conceiving it in the power of the said Watts to make such a title as was contemplated at the time of the execution of the contract. This respondent is under the impression that this event took place some time during the last summer, but is not distinct in his recollection as to the precise time. This respondent denies all and all unlawful combination with which he stands charged. Without this, that there is any matter or thing in the said bill contained not herein or hereby sufficiently answered unto, confessed or avoided, traversed and denied, which is true; and prays hence to be dismissed with his reasonable costs herein most unjustly sustained, &c.

J. WADDLE.

B. LANARD, *Sol. for Def.*

STATE OF OHIO, ROSS COUNTY, ss.

Personaliy appeared before me, the subscriber, a justice of the peace in and for the said county, the said respondent John Waddle, who, being by me first duly sworn, doth depose and say that the matters and things, as the same are stated from his own knowledge, are true, and so far as the same are stated from the information of others, he believes to be true.

J. WADDLE.

Sworn and subscribed this 7th July, 1827, before me.

THOMAS ORR, *J. P.* [SEAL.]

The answer of William Lamb to the bill of complaint exhibited against him and John Waddle, in the Circuit Court of the United States for the seventh circuit and district of Ohio, by John Watts.

This respondent, saving and reserving to himself all and all manner of benefit of exceptions to the many untruths, imperfections, and errors in the said bill of complaint contained, for answer thereto, or to so much thereof as he is advised it is material for them to make answer unto, answering, says:

That, anterior to the year eighteen hundred, Nathaniel Massie claimed and was in possession of, as the proprietor in fee, of the land appropriated by No. 503, of 1,000 acres, in the name of Captain Robert Powell, as also of the entry No. 2,462, in the name of Nathaniel Massie, in the Virginia military district. That the said entries were surveyed by the said Nathaniel Massie as a deputy surveyor, and the surveys recorded in the books of the principal surveyor of the Virginia military district, which entries were made, and surveys made and recorded prior to the year 1800. That the said lots and tract of land, specified in the said contract in the bill mentioned, made by the said John Watts with this respondent, are embraced within the limits of the surveys executed as aforesaid by the said Massie, on the entries Nos. 503 and 2,462, so as to be partly within the limits of the one and partly within the limits of the other. That an entry, No. 509, of 1,000 acres, in the name of Ferdinand O'Neal, was made in the books of the principal surveys of the Virginia military district, which was surveyed by the said Massie, as the authorized agent of the said O'Neal, as his assignee, and duly recorded; all which was anterior to the year 1800; to certified copies

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of all which entries and surveys this respondent refers, and prays the same may be taken as a part of this his answer. That afterwards, John Watts, claiming as assignee under the said Ferdinand O'Neal, exhibited his bill in equity on the chancery side of the circuit court of the United States for the district of Kentucky against the said Nathaniel Massie, alleging, among other things in the said bill, that the said Massie had fraudulently executed the surveys of the said several entries, and in such a manner that the entry No. 509, in the name of Ferdinand O'Neal, was executed entirely off the land appropriated by its calls. And such proceedings were afterwards had in the said cause that a decree was therein rendered in the said circuit court of the United States for the seventh circuit and district of Kentucky, for which decree an appeal was taken to the Supreme Court of the United States. This respondent further alleges, that, in the last mentioned court, such a construction was put upon the said entries that the said entries, No. 509, embraced in its calls, and all the lots and land specified in the said contract between John Watts and this respondent, and a decree in conformity to the said construction was rendered, requiring the said Massie to convey to the said John Watts all the land embraced agreeably to that construction by the calls of entry No. 509, and which had been surveyed by the said Massie in entries No. 503 or 2,462, amounting to 1,000 acres, and the said Watts was required to convey 1,000 acres of the entry 509 to the said Massie, neither of which has been done to the said Massie, or his heirs since his decease, or the said Watts; all which was remanded to the United States circuit court for the district of Kentucky for execution, where a final decree, in strict conformity to the aforesaid decision and decree of the Supreme Court aforesaid, was rendered; to certified copies of which proceeding this respondent refers, and will produce the same at the hearing. This respondent, further answering, states, that after the final decree in the circuit court of the United States for the district of Kentucky was rendered, in the said cause of John Watts *vs.* Nathaniel Massie, the said John Watts instituted a suit in the chancery side of the United States circuit court for the district of Ohio, against the said Massie and others, among whom was this respondent, for the purpose of having the said decree of the circuit court of the United States for the Kentucky district carried into effect, and of obtaining the legal title to, and possession of, all the land decreed to him, the said Watts, by the said circuit court for the district of Kentucky. That this last mentioned cause was brought to a hearing in the circuit court of the United States for the district of Ohio, and a decree therein rendered in favor of the said John Watts against the several defendants; that this final decree was rendered at the January term of the said circuit court in the year 1818. And this respondent, further answering, that prior thereto, to wit, at the September term of said court, in the year 1815, an interlocutory decree was rendered, and the separate claims of the several defendants were directed to be laid down preparatory to the rendition of a final decree. That this respondent was then, at the time of the rendition of the said interlocutory decree, in possession of the said lots and tract of land, and had been for many years, and this in virtue of various sales and conveyances made by the said Massie and several others, (all of whom derived title from the said Massie,) to this respondent. That these sales and conveyances were all made in good faith, without notice of any other title, and for a valuable consideration, paid by this respondent to the several venders. This respondent, after the said interlocutory decree of the United States circuit

court for the district of Ohio, with a view of putting an end to all further litigation relative to the said lots and tract of land, and to acquire, not only a perfect and indefeasible, but a secure title, and are not exposed to the expense and vexation of further dispute, entered into the contract specified in the said bill, and made the payments therein mentioned. This contract was entered into under the strongest impression, and with the sole intention that on the final decree being rendered in the said cause in the circuit court, an indisputable title should be made by the said Watts of the said premises to this respondent. This respondent, further answering, says, that the said Watts, at the time of the execution of this said contract, informed this respondent that he thought the final decree would be rendered within a year from that period; and the decree referred to was the decree in the circuit court rendered in January, 1818; and although several of the said defendants took an appeal from the said final decree, rendered in the said cause, to the Supreme Court of the United States, yet neither Massie, nor after his decease, his heirs, nor this defendant, who were interested in the said lots and tract of land specified in the said contract, took such appeal; and therefore, as to those lots and tracts, the said decree had in the said cause at the January term, 1818, was final. This respondent, further answering, says, that he never intimated any wish that there should be any delay in the execution of the title to the said lots and tract of land; but, on the contrary, this respondent has frequently expressed an anxious desire to have the deeds executed, and after calling on the said Watts for that purpose, and has suffered materially by the disputed title and great delay on the part of Watts in the execution of the deeds. And this respondent further says, that the said Watts was fully as competent to execute a title in law to this respondent, after the rendition of the final decree in the said cause of Watts *vs.* Massie and others, at the January term 1818, as after what the complainant considers the final determination in September term 1821. This respondent, further answering, says, that since the execution of the said agreement between the said John Watts and this respondent, as aforesaid, it has been ascertained that the legal title for the said survey, No. 503, was never in the said Massie, a fact of which this respondent was ignorant at the time, and with respect to which he then labored under an erroneous impression; and a patent has, since the time of the execution of the said agreement, emanated therefor from the United States to the heirs at law and legal representatives of the aforementioned Captain Robert Powell, bearing date some years prior to the patent specified in the bill of complaint, to which patent to the heirs of Powell, as also to the proceedings had in the said cause of Watts *vs.* N. Massie and others, this respondent refers, and will produce certified copies at the hearing. This respondent further alleges, that the said heirs at law of Powell have laid claim to the whole of the said survey No. 503, and instituted suits for the recovery of several large portions thereof, and that various litigations are still pending relative to their claim to the said survey No. 503. And this respondent further alleges, that the heirs at law of the late John Wilson set up and claim title to the said survey No. 503, and that their ancestor was assignee of the same from the said Captain Robert Powell, and that he never departed with his interest or received a valuable consideration therefor. This respondent, further answering, says, that the said Nathaniel Massie derived all his title, if any he had to the said survey No. 503, through intermediate assignees from the said Powell, one of which intermediate assignees was the said Wilson. This

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respondent, in further answering, says, that one Henry Banks claims title to the entry No. 509, in the name of Ferdinand O'Neal, by virtue of an assignment prior, in point of time, to the assignment under which the said Watts claims; and that, for the purpose of enforcing his claim against the said Watts, he has instituted a suit in chancery against the said Watts, which is now pending in the circuit court of the United States for the Kentucky district. This respondent, further answering, says, that the said lots and tract of land lay in the boundary of the survey No. 503 and 2,462, so that the boundary line passes through the said lots irregularly, and in such a manner that a failure of title to either that portion of the said lots included in survey No. 503, or that portion included in survey No. 2,462, would most materially injure their form and impair their value. This respondent admits that he has assigned the said contract to John Waddle, as in and by the said endorsement on the same fully appears, but he denies that the same was done with a view to injure the complainant. This respondent admits the institution of the suit at law and recovery of the judgment, as in the bill alleged. This respondent refers to the proceedings in the cause now pending in the United States circuit court for the Kentucky district, of Henry Banks *vs.* John Watts, as also all the warrants, entries, surveys, assignments, and patents aforementioned, certified copies of which he will produce on the hearing. This respondent denies all fraud and unlawful combination with which he stands charged. Without this, that there is any other matter or thing in the said bill contained not herein wholly sufficiently answered unto, traversed and denied, confessed or avoided, which is true; and prays hence to be dismissed with his reasonable costs in this behalf most unjustly sustained.

WM. LAMB.

B. G. LEONARD, *Sol. for Def't.*

STATE OF OHIO, ROSS COUNTY, ss.

Personally appeared before me, the subscriber, a justice of the peace in and for the said county, William Lamb, the above respondent, who, being duly sworn, doth say that the matters and things set forth and stated, so far as stated from his own knowledge, are true, and so far as stated from the information of others, he believes to be true.

WILLIAM LAMB.

Sworn and subscribed this 7th July, 1827, before me,
THOMAS ORR, *J. P.* [SEAL.]

And thereupon this cause was further continued; and afterwards, to wit, at rules held in the clerk's office of said court, in the months of August, September, October, and November, this cause was continued; and afterwards, to wit, at December rules, the complainant files in the clerk's office of said court his replication to the answers of the said defendants in the premises aforesaid, in the words and figures following, to wit:

United States Seventh Circuit Court, Ohio District.

JOHN WATTS, Complainant,
versus
JOHN WADDLE AND WILLIAM LAMB, Respondents. } *In Chancery.*

And the said complainant protesting, &c., says that the said answers of the said respondents are untrue, and that the said bill of him, the said complainant is true, and so he will prove it to be when and where this honor-

able court shall direct and award; wherefore he prays, as in and by his said bill he has already prayed, &c.

WM. CREIGHTON, Jr., *Sol. P. Q.*

And afterwards, to wit, at the December term of said court, in the year of our Lord one thousand eight hundred and twenty-seven, (which was to have been begun and held on the 24th day of the same month in the year last aforesaid,) was continued and adjourned by the marshal of the district aforesaid, on account of the non-attendance of the judges of said court. And afterwards, to wit, at a circuit court begun and held on the fourteenth day of July, in the year of our Lord one thousand eight hundred and twenty-eight, come again into court here, the said parties by their counsel aforesaid, and thereupon this cause was further continued until the next term. At which said next term, being the December term, which was begun and held on Monday the twenty-second day of the same month of December, in the year of our Lord one thousand eight hundred and twenty-eight, come again into court here the said parties, by their counsel aforesaid, and thereupon further proceedings in this cause is continued until the next term. At which said next term, being the July term of said court, which was begun and held on the thirteenth day of the same month, in the year of our Lord one thousand eight hundred and twenty-nine, come again into court here the said parties, by their counsel aforesaid, and thereupon this cause was further continued. And now, at this day, to wit, the fourth Monday of December, in the year of our Lord one thousand eight hundred and twenty-nine, and the time and place first aforesaid mentioned, came the parties aforesaid, by their counsel, and thereupon the following exhibits and depositions were used as evidence upon the hearing of said cause, to wit:

Nathaniel Massie claims, and was in possession, as proprietor in fee, of entry No. 503, of 1,000 acres, in the name of Robert Powell, of entry No. 2,462 in his own name, in the Virginia military district; said entries were surveyed by the said Nathaniel as a deputy surveyor, and the survey recorded in the books of the principal surveyor, and the entries made and the surveys made and recorded prior to the year 1800. The said land and lots mentioned in the contract in bill specified, are embraced within the limits of the said surveys, so that one of the division lines of the same runs through them in the manner shewn in the annexed plat C. That entry 509, in answer mentioned, was made and surveyed by said Massie as the agent of Ferdinand O'Neal, and recorded anterior to the year 1800. That afterwards the complainant John Watts, claiming as assignee under O'Neal, filed his bill in the United States circuit court for Kentucky against said Massie, charging that said Massie had fraudulently and illegally executed the surveys of the said entries, and in such a manner that entry 509 was surveyed entirely off the land appropriated by its calls, and within the two surveys No. 503 and 2,462, of both of which he charged Massie, at the time of the execution of the surveys and at the time after filing said bill, to have been the proprietor, upon which bill a decree was rendered in the said circuit court and the cause remanded to the Supreme Court. In that court such a construction was put upon their entries, that entry No. 509 was made to embrace all the land and lots included in contract mentioned in bill, and a decree was rendered requiring Massie to convey to Watts all the land embraced by the calls of entry No. 509, and which had been surveyed in surveys No. 503 and 2,462, amounting to 1,000 acres, and Watts was required to convey 1,000 acres of the survey 509 to Massie, neither of which

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has been done by Massie, or his heirs, or by Watts; all of which was remanded to the said circuit court for execution, where a decree in strict conformity was entered. That afterwards the said Watts filed his bill in the United States circuit court for Ohio against the said Massie and others, including the defendant Lamb, for the purpose of carrying into effect the decree of the circuit court of Kentucky, and obtaining the legal title to possession of all the land decreed to the said Watts by the circuit court of Kentucky. In this last cause a final decree was rendered at the January term 1818; at the September term, 1815, an interlocutory decree was made, directing how the separate claims of the several defendants should be laid down. The said Lamb was then, at the time of the rendition of the said interlocutory decree, in possession of the said lots and tracts of land mentioned in the contract, and had been for many years previous thereto, and this in virtue of various conveyances made to him by the said Massie and others, (all derives title from the said Massie.) The purchases were made in good faith, and a valuable consideration paid therefor by said Lamb, and, at the time of the payment of the purchase money and execution of the conveyances, nor at any time previous, has said Lamb notice of any other title than that under which he purchased on the 1st November, 1815. The said Lamb entered into the contract in bill mentioned. Several of the defendants took an appeal to the Supreme Court in the last mentioned cause, but neither Massie nor his heirs, nor said Lamb, nor any defendant claiming an interest in the property in contract mentioned. The said appeal was determined in favor of Watts, cause remanded to the circuit court, where a final decree was rendered in favor of Watts at the September term, 1822. No patent ever issued for survey No. 503 to N. Massie or his heirs, but the same was patented to the heirs of the said Robert Powell by patent bearing date the 4th November, 1818. That the deed of conveyance marked (A) was made and offered to the defendant Waddle, together with the costs, in the manner and at the time set forth in the bill. That the said William Lamb has continued and still continues in the undisturbed possession of the premises, exercising acts of governorship, and the patent to Watts made an exhibit in the cause covers the premises mentioned in the contract. The paper marked (B), produced by the complainant, is admitted as evidence of its contents, the rendition of the decree. Depositions at any time to be taken, at any time during the ensuing week, on short notice, before any magistrate in Chillicothe, may be used on the hearing. All exception to the competency of testimony is reserved. Nor is this to be considered as an agreed case, but all duly authenticated testimony to be read on the hearing the same, as if this agreement had not been entered into; and any part of the record of the case of Watts *vs.* Massie and others, in the circuit court Ohio district, may be used without the introduction of the whole. This agreement made in the case of Watts *vs.* Lamb and Waddle in the United States circuit court, Ohio district.

W. CREIGHTON, Jun., *Sol. for Comp't.*
B. G. LEENARD, *Sol. for Def'ts.*

Dated 3d July, 1829.

James Monroe, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that, in consideration of military service performed by Robert Powell (a captain for three years) to the United States, in the Virginia

line on continental establishment, and in pursuance of an act of the Congress of the United States, passed on the 10th day of August, in the year 1790, entitled, "An act to enable the officers and soldiers of the Virginia line on continental establishment to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Scioto," and other acts of the said Congress amendatory of the said act, there is granted by the United States unto John W. Powell, Francis Powell, Robert Powell, Margaretta P. Bledsoe, (formerly Margaretta P. Powell,) Nancy T. Ricketts, (formerly Nancy T. Powell,) Margaret B. Jones, (formerly Mary B. Powell,) William M. Powell, and Susan W. Powell, the surviving children and heirs of the said Robert Powell, deceased, a certain tract of land containing eight hundred and sixty-five acres, situate between the Little Miami and Scioto rivers, northwest of the river Ohio, by survey bearing date the fifth day of October, in the year one thousand seven hundred and ninety-three, and bounded and described as follows, to wit: Survey of eight hundred and sixty-five acres of land in favor of the said Robert Powell, on part of a military warrant, No. 903, (the whole thereof being for four thousand acres,) on the west side of the Scioto, beginning at five cotton woods, upper corner on the river to Thomas Massie's survey No. 480; thence up the river north four degrees west thirty, north seventeen degrees west thirty-four, north sixty degrees west fifty-four, north thirty degrees west one hundred and thirty-four, north ten degrees west twenty-four, north eighteen degrees west thirty-two, north twenty poles, north nine degrees west twenty, north twenty-one degrees west ten, north two degrees west twenty-one, north eleven degrees west forty-three poles, to a large Spanish oak and white oak on the river bank; thence north eighty degrees west one hundred and seventy-four poles, to three iron woods and a sugar tree on the bank of the river; thence up the river south eighty degrees west twenty, south fifty degrees west forty-eight, south sixty-nine degrees west one hundred and one, south seventy-eight degrees west sixty, south eighty-eight degrees west forty, south sixty-eight degrees west twelve, south fifty-two degrees west forty-seven poles, to a Spanish oak, hickory and sugar tree, on the bank of the river; thence south forty-three degrees east two hundred and ninety-three poles to two sugar trees and a walnut; thence south eighty degrees east four hundred and twenty-eight poles, passing Massie's upper back corner, and with his line, to the beginning, with the appurtenances: to have and to hold the said tract of land, with the appurtenances, unto the said several persons above named, and their heirs and assigns, for ever, as tenants in common and not as joint tenants.

In witness whereof, the said James Monroe, President of the United States of America, hath caused the seal of the general land office to be hereunto affixed, and signed the same with his hand, at the city of Washington, the fourth day of November, in the year of our Lord 1818, and of the independence of the United States of America the forty-third.

By the President, JAMES MONROE.

JOSIAH MEIGS,
Commissioner of the General Land Office.

I certify that Robert Powell was originally entitled to the bounty land granted unto the children and heirs of said Powell by the within patent. Given at the general land office this 4th day of November, 1818.

JOSIAH MEIGS.

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Recorded in the general land office in vol. 8, page 373 of patents for lands granted to the Virginia line on continental establishment.

J. M. MOORE, *Clk.*

This indendure, made this 17th day of November, in the year of our Lord one thousand eight hundred and twenty-six, between John Watts of the county of Bedford, in the State of Virginia, of the one part, and John Waddle of the town of Chillicothe, in the county of Ross and State of Ohio, of the other part, witnesseth, that the said John Watts, for and in consideration of the sum of four thousand seven hundred and sixteen dollars and sixty-six and two-thirds cents, current money of the United States of America, to him in hand paid, the receipt whereof he doth hereby acknowledge and for ever acquit and discharge the said John Waddle, his executors and administrators, hath granted, bargained, sold, aliened, and confirmed, and by these presents doth grant, bargain, sell, alien, and confirm, unto the said John Waddle, his heirs and assigns for ever, all those twenty-two tracts or parcels of land lying and being in the county of Ross in the State of Ohio, within the incorporated limits of the town of Chillicothe, known and distinguished on the recorded plat of the said town as the out lots thereof, numbered seventy (70,) eighty-three (83,) one hundred and nine (109,) eighty-four (84,) one hundred and eight (108,) ninety-seven (97,) one hundred and seven (107,) one hundred and four (104,) one hundred and six (106,) eighty-two (82,) eighty-five (85,) ninety-five (95,) one hundred and two (102,) eighty-one (81,) seventy-two (72,) sixty-seven (67,) one hundred (100,) one hundred and one (101,) ninety-three (93,) ninety-four (94,) eighty-seven (87,) eighty-eight (88,) also all that tract or parcel of land in the said county and state within the incorporated limits of the said town of Chillicothe, known as the east half of the out lot of the said town, numbered one hundred and ten (110,) and also all that tract or parcel of land in the said county and state containing four and one third acres, bounded and described as follows, to wit: beginning at the northeast corner of the out lot of the said town, numbered (106) one hundred and six, thence with the north line of said out lot, No. 106, and the north line of the out lot of said town, numbered (107) one hundred and seven, to the northwest corner of the last mentioned out lot, thence north fifteen degrees west, and from the beginning north fifteen degrees west equal distance for quantity.*

Together with all improvements, water courses, profits, and appurtenances whatsoever, to the said premises belonging or in any wise appertaining, and the reversions, remainders, and profits thereof, and all the estate, right, title, interest, property, claim, and demand of him, the said John Watts, of, in, and to the same; to have and to hold the lands hereby conveyed, with all and singular the premises, and every part and parcel thereof, with every of the appurtenances, unto the said John Waddle, his heirs and assigns for ever, to the only proper use, benefit, and behoof of him, the said John Waddle, his heirs and assigns for ever; and the said John Watts, for himself, his heirs, executors, and administrators, doth covenant, promise and agree to and with the said John Waddle, his heirs, and assigns, by these presents, that the premises before mentioned now are, and for ever hereafter shall remain free of and from all former and other gifts, grants, bargains, sales, dowers, right and title of dower, judgments, executions, titles, troubles, charges, and incumbrances whatsoever, done or suffered to be

* For plat see original.

line on continental establishment, and in pursuance of an act of the Congress of the United States, passed on the 10th day of August, in the year 1790, entitled, "An act to enable the officers and soldiers of the Virginia line on continental establishment to obtain titles to certain lands lying northwest of the river Ohio, between the Little Miami and Scioto," and other acts of the said Congress amendatory of the said act, there is granted by the United States unto John W. Powell, Francis Powell, Robert Powell, Margaretta P. Bledsoe, (formerly Margaretta P. Powell,) Nancy T. Ricketts, (formerly Nancy T. Powell,) Margaret B. Jones, (formerly Mary B. Powell,) William M. Powell, and Susan W. Powell, the surviving children and heirs of the said Robert Powell, deceased, a certain tract of land containing eight hundred and sixty-five acres, situate between the Little Miami and Scioto rivers, northwest of the river Ohio, by survey bearing date the fifth day of October, in the year one thousand seven hundred and ninety-three, and bounded and described as follows, to wit: Survey of eight hundred and sixty-five acres of land in favor of the said Robert Powell, on part of a military warrant, No. 903, (the whole thereof being for four thousand acres,) on the west side of the Scioto, beginning at five cotton woods, upper corner on the river to Thomas Massie's survey No. 480; thence up the river north four degrees west thirty, north seventeen degrees west thirty-four, north sixty degrees west fifty-four, north thirty degrees west one hundred and thirty-four, north ten degrees west twenty-four, north eighteen degrees west thirty-two, north twenty poles, north nine degrees west twenty, north twenty-one degrees west ten, north two degrees west twenty-one, north eleven degrees west forty-three poles, to a large Spanish oak and white oak on the river bank; thence north eighty degrees west one hundred and seventy-four poles, to three iron woods and a sugar tree on the bank of the river; thence up the river south eighty degrees west twenty, south fifty degrees west forty-eight, south sixty-nine degrees west one hundred and one, south seventy-eight degrees west sixty, south eighty-eight degrees west forty, south sixty-eight degrees west twelve, south fifty-two degrees west forty-seven poles, to a Spanish oak, hickory and sugar tree, on the bank of the river; thence south forty-three degrees east two hundred and ninety-three poles to two sugar trees and a walnut; thence south eighty degrees east four hundred and twenty-eight poles, passing Massie's upper back corner, and with his line, to the beginning, with the appurtenances: to have and to hold the said tract of land, with the appurtenances, unto the said several persons above named, and their heirs and assigns, for ever, as tenants in common and not as joint tenants.

In witness whereof, the said James Monroe, President of the United States of America, hath caused the seal of the general land office to be hereunto affixed, and signed the same with his hand, at the city of Washington, the fourth day of November, in the year of our Lord 1818, and of the independence of the United States of America the forty-third.

By the President, JAMES MONROE.

JOSIAH MEIGS,
Commissioner of the General Land Office.

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J. M. MOORE, *Clk.*

This indendure, made this 17th day of November, in the year of our Lord one thousand eight hundred and twenty-six, between John Watts of the county of Bedford, in the State of Virginia, of the one part, and John Waddle of the town of Chillicothe, in the county of Ross and State of Ohio, of the other part, witnesseth, that the said John Watts, for and in consideration of the sum of four thousand seven hundred and sixteen dollars and sixty-six and two-thirds cents, current money of the United States of America, to him in hand paid, the receipt whereof he doth hereby acknowledge and for ever acquit and discharge the said John Waddle, his executors and administrators, hath granted, bargained, sold, aliened, and confirmed, and by these presents doth grant, bargain, sell, alien, and confirm, unto the said John Waddle, his heirs and assigns for ever, all those twenty-two tracts or parcels of land lying and being in the county of Ross in the State of Ohio, within the incorporated limits of the town of Chillicothe, known and distinguished on the recorded plat of the said town as the out lots thereof, numbered seventy (70,) eighty-three (83,) one hundred and nine (109,) eighty-four (84,) one hundred and eight (108,) ninety-seven (97,) one hundred and seven (107,) one hundred and four (104,) one hundred and six (106,) eighty-two (82,) eighty-five (85,) ninety-five (95,) one hundred and two (102,) eighty-one (81,) seventy-two (72,) sixty-seven (67,) one hundred (100,) one hundred and one (101,) ninety-three (93,) ninety-four (94,) eighty-seven (87,) eighty-eight (88,) also all that tract or parcel of land in the said county and state within the incorporated limits of the said town of Chillicothe, known as the east half of the out lot of the said town, numbered one hundred and ten (110,) and also all that tract or parcel of land in the said county and state containing four and one third acres, bounded and described as follows, to wit: beginning at the northeast corner of the out lot of the said town, numbered (106) one hundred and six, thence with the north line of said out lot, No. 106, and the north line of the out lot of said town, numbered (107) one hundred and seven, to the northwest corner of the last mentioned out lot, thence north fifteen degrees west, and from the beginning north fifteen degrees west equal distance for quantity.*

Together with all improvements, water courses, profits, and appurtenances whatsoever, to the said premises belonging or in any wise appertaining, and the reversions, remainders, and profits thereof, and all the estate, right, title, interest, property, claim, and demand of him, the said John Watts, of, in, and to the same; to have and to hold the lands hereby conveyed, with all and singular the premises, and every part and parcel thereof, with every of the appurtenances, unto the said John Waddle, his heirs and assigns for ever, to the only proper use, benefit, and behoof of him, the said John Waddle, his heirs and assigns for ever; and the said John Watts, for himself, his heirs, executors, and administrators, doth covenant, promise and agree to and with the said John Waddle, his heirs, and assigns, by these presents, that the premises before mentioned now are, and for ever hereafter shall remain free of and from all former and other gifts, grants, bargains, sales, dowers, right and title of dower, judgments, executions, titles, troubles, charges, and incumbrances whatsoever, done or suffered to be

* For plat see original.

done, by him, the said John Watts. And the said John Watts and his heirs all and singular the premises hereby bargained and sold, with the appurtenances, unto the said John Waddle, his heirs and assigns, against him, the said John Watts and his heirs, and all and every other person or persons whatsoever, doth and will warrant and for ever defend by these presents.

In testimony whereof, he, the said John Watts, hath hereunto set his hand and seal the day and year above written.

JOHN WATTS, [SEAL.]

Signed, sealed, and delivered in presence of
CADWALLADER WALLACE,
MATTHEW BONNER.

STATE OF OHIO, ROSS COUNTY, ss.

Before me, the undersigned, a qualified and acting justice of the peace in and for said county, this day personally appeared the within John Watts, who acknowledged the signing and sealing of the within deed of bargain and sale to John Waddle to be his act and deed for the special purposes therein expressed.

Witness my hand and seal this seventeenth day of November, in the year of our Lord one thousand eight hundred and twenty-six.

JAMES MILLER, *J. P.* [SEAL.]

Surveyed for Ferdinand O'Neal 1,000 acres of land on part of a military warrant, No. 1,387, agreeably to a decree of the Supreme Court of the United States, on the Scioto river, beginning at two small elms and a white thorn bush, upper corner on the river to Robert Powell's entry, No. 503; thence up the river, and binding thereon as it meanders, N. 49° W. 19 poles, N. 48½° W. 29 poles, crossing the head of a thoroughfare or arm of the river to the main bank; thence N. 2° E. 9 poles, N. 35° 30' W. 30 poles, N. 48° W. 22 poles, N. 43½° W. 14 poles, N. 43° W. 38 poles, N. 67½° W. 14 poles, N. 88½° W. 16 poles, S. 65° W. 26 poles, S. 62¼° W. 20 poles 11 links, S. 54½° W. 38½ poles, S. 50° W. 56 poles, S. 55° W. 36 poles, S. 64¾° W. 38 poles, S. 72° W. 30 poles, S. 73½° W. 36 poles, N. 60½° W. 5 poles 9 links, W. 20 poles, S. 84° W. 30 poles, S. 72° W. 76 poles, S. 57° W. 17 poles, to a stake at the abutment of the Chillicothe bridge, bearing N. 41° 45' E. 4 poles 8 links from the N.E. corner of the house of the Chillicothe brewery; thence S. 4° 37' E. 501 poles 4 links, crossing a thoroughfare or mill dam at 426 poles, and Paint creek at 475 poles, to four box elders; thence N. 85° 23' E. 258 poles 11 links, crossing the creek at 184 poles, and a thoroughfare or a run of the creek at 192 poles; to a stake on the beach line of Powell's said entry; thence with said line N. 41° 32' W. 252¾ poles to a stake from which a honey locust 18 inches in diameter bears S. 70½° E. 4 poles 7½ links, upper back corner of said entry; thence, with the upper line thereof, N. 48° 28' E. 502 poles, crossing the said thoroughfare or arm of the river to the beginning.*

CADWALLADER WALLACE, *D. S.*

DAVID VEAL, } *Chain Carriers.*
MATTHEW BONNER, }
JOHN EVANS, *Marker.*
July 21st, 1825; *August 13th*, 1825.

* For plat see original.

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It is hereby certified, that the survey of 570 acres, part of Ferdinand O'Neal's entry No. 509, heretofore made by Nathaniel Massie, was never received by John Watts, the assignee of Ferdinand O'Neal, and that the said Watts always, and at all times, protested against the said survey and the acts and doings of the said Massie therein; and that, after final adjudicature, the Supreme Court of the United States have decreed that the said Watts shall hold entry No. 509, as within surveyed, and the said Watts hereby takes upon himself the responsibility of the said survey, and requires the same to be recorded by Col. Richard C. Anderson, principal surveyor, &c., agreeably to the present return.

JOHN WATTS,
By his agent Cadwallader Wallace.

July 22, 1825.

Surveyor's Office for the Virginia Military District within the State of Ohio.

I, Allen Latham, surveyor of said military district, do certify, that the foregoing is a true copy of Ferdinand O'Neal's survey of 1,000 acres, No. 509, and of the certificate thereto attached, as of record in my office; and that among the files of my office in the original return of said survey, made by Cadwallader Wallace as deputy surveyor, the said certificate is endorsed in the hand writing of said Wallace.

Given under my hand and seal of office at Chillicothe, this second day of July, A. D. 1829.

ALLEN LATHAM, *Surveyor*, [SEAL.]

Be it remembered, that on the twenty-third day of October, in the year one thousand eight hundred and twenty-one, Henry Banks, by his counsel, filed in the clerk's office of the general court of the State of Kentucky the following bill against John Watts and the unknown heirs of Ferdinand O'Neal, to wit:

To the Honorable the Judges of the General Court of the State of Kentucky, in chancery sitting:

Humbly complaining, sheweth to your honors, your orator, Henry Banks, a citizen and resident of Virginia, that a certain Ferdinand O'Neal was a captain in the service of the United States, in the Virginia continental line, during the revolutionary war, or during such part thereof as entitled him to a tract of bounty land of at least 4,500 acres, to be located and a grant obtained within the bounds reserved by the government of Virginia; and being so entitled, he, in consideration of the sum of £225 sterling, he, on the 7th day of July, 1788, sold and assigned, by a proper writing of that date, the right to said bounty land to one Thomas Washington. That on the 24th day of November, 1790, the said Washington, by a proper endorsement on said writing, authorized one Thomas Shields to make sale of said lands, and that said Shields accordingly, on the 1st day of March, 1791, by a proper endorsement on said writing, and for a full and valuable consideration paid to him, sold and assigned the said land to your orator, which said writing, together with the endorsement thereon, are filed herewith as part of this bill, and are in substance as follows:

STATE OF GEORGIA, *7th July*, 1788.

Know all men by these presents, that I, Ferdinand O'Neal, Esq., of the

State of Georgia, for and in consideration of the sum of two hundred and and twenty-five pounds sterling, to me in hand paid, the receipt of which I do hereby acknowledge, have bargained and sold, and made over unto Thomas Washington, Esq., a tract of land containing four thousand five hundred acres, being my bounty for my services as a captain in the Virginia line, which land was to be run in the officers' reserve. Mr. William Call was empowered to have the above land run for me, and is now to be delivered up to Thomas Washington or order.

F. O'NEAL.

(Endorsed.)

I hereby give full power and authority to Thomas Shields, his heirs and assigns, to dispose of the within lands. Witness my hand this 24th of November, 1790.

T. WASHINGTON.

I do hereby sell, alien, and make over the aforesaid land to Henry Banks, his heirs, executors, administrators, and assigns, being for value received, and direct that titles be made out to him for the same. Witness my hand and seal at Richmond, March 1, 1791.

THOMAS SHIELDS, [SEAL.]

Witness, JOHN WATSON,
LUTHER STODDARD.

Your orator further shews, that shortly after the purchase aforesaid, he transmitted the aforesaid assignment from O'Neal from Richmond in Virginia, when he resided in Kentucky, to his agent, for the purpose of attending to it and procuring a grant; but that this business, like many other of his interests in the western country, was entirely neglected by his agents, and it was not until some time after the arrival of your orator in Kentucky, in the year 1813, that he again acquired the said assignment, and ascertained how his interests had been neglected. Your orator further shews, that he has recently ascertained that said Ferdinand O'Neal, after the aforesaid sale and assignment to Thomas Washington, under which your orator claims, and about the 15th day of June, 1790, fraudulently transferred to one John B. Scott a warrant for 4,000 acres of said land, to which your orator is entitled; and that a certain John Watts, who is also a citizen and resident of Virginia, has procured grants for part of the said 4,000 acres, and perhaps for the whole, as he claims the whole of said 4,000 acres under an assignment from Francis and Charles Scott, made the 11th day of October, 1799, who claim under the fraudulent assignment to said John B. Scott. Your orator alleges, that before said Watts procured said grants, or any of them, and also before the assignment to himself, he had personal notice of the previous sale by said O'Neal, and the right of your orator under it; your orator having personally communicated the facts to him in the summer of the year 1790, and the said Watts being also well informed of it from other sources. Your orator further shews to your honors, that he has been informed and believes, that said Watts has sold and conveyed, to one or more persons, part of said land for a valuable consideration paid to said Watts, who alleged that they had no knowledge of your orator's previous equity. Your orator further shews, that the said Watts is personally acquainted with the hand-writing of the said Ferdinand O'Neal, and knows or believes that the signature of the name of the said O'Neal, on the document hereto an-

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nexed and referred to, is in the handwriting of him the said O'Neal. He further shews, that he has applied to said Watts for a conveyance of his right to said land, and for compensation for the land sold, all of which he declines to do; all of which is iniquitous, &c. In tender consideration whereof, and for as much as he is remediless at law, and can have redress in a court of chancery only, to the end, therefore, that the said John Watts and the unknown heirs of said Ferdinand O'Neal, (he having died in the State of Georgia, and his heirs wholly unknown to your orator,) who are made defendants to this bill, may, on oath, answer the allegations of this bill; that said Watts may, in particular, set forth whether he claims title to any of the said bounty land of said O'Neal; if he does, to set forth what part, where they lie, when and to whom granted, or, if not granted, how is the title now situated; that he may set forth whether he has sold, alienated, or incumbered, by any contract or conveyance, any part of said lands; if so, what part, to whom, and set forth the contract and conveyance at large; and, in particular, if he has conveyed any part, that he may set forth at large the consideration or price received or stipulated to be paid, and whether received or now due and owing; that he may be restrained from conveying or incumbering said title, until the final hearing of this cause; that on the final the said Watts be decreed to convey to your orator the right and title to such part of said land as he now holds, and to repay to your orator the consideration received for such part of said land as he has sold, with interest; and that your orator may have such other and further relief in the premises as may be equitable, may it please your honors to grant him the commonwealth's writ of subpœna., &c. &c.

HARDIN, *for comp't.*

FRANKLIN COUNTY, sct.

Henry Banks appeared before me, a justice of the peace for the county of Franklin, and made oath, that the matters alleged in the foregoing bill, so far as they relate to his own knowledge, are true, and so far as they relate to the information received from others, he believes to be true. Given under my hand as aforesaid, October 19th, 1821.

J. SWIGART, *J. P.*

The Commonwealth of Kentucky to the Sheriff of Franklin County, greeting:

You are hereby commanded to summon John Watts and the heirs of Ferdinand O'Neal to appear before the judges of the general court, at the state house in Frankfort, in the county of Franklin, on the first day of January term next, to answer a bill in chancery, exhibited against them by Henry Banks; and this they shall in no wise omit under the penalty of £100, and have then there this writ. Witness Willis A. Lee, clerk of our said court, at the state house aforesaid, this 24th day of October, 1821, and in the 30th year of the commonwealth.

WILLIS A. LEE, *C. G. C.*

Executed on John Watts, 24th October, 1821; the heirs of Ferdinand O'Neal not found.

D. C. FREEMAN, *D. S.*
For S. Brown, S. F. C.

And afterwards, to wit, at a general court held for the State of Kentucky, on the 17th day of August, 1826, until which time this cause was regularly continued, came, &c.

HENRY BANKS, complainant,
against
JOHN WATTS AND OTHERS, defendants. } *In Chancery.*

This day came the complainant, by his counsel, and it appearing to the satisfaction of the court, that the unknown heirs of Ferdinand O'Neal, deceased, are not inhabitants of this commonwealth, and they having failed to enter their appearance herein, agreeably to law and the rules of this court, it is therefore ordered, that unless they do appear here on or before the first day of January term next, and answer the complainant's bill, the same will be taken against them pro confesso, and the matters thereof decreed; and it is further ordered, that a copy of this order be published in some authorized newspaper, printed in Frankfort, for two months successively, and the cause is continued until the next term.

The undersigned, one of the editors of the Argus of Western America, a public newspaper printed in the town of Frankfort, Kentucky, hereby certifies, that the annexed order of the general court, (H. Banks against J. Watts and others,) has been published in said newspaper for nine weeks successively, ending on the 22d November, 1826.

ROB. JOHNSON.

And the said cause has been regularly continued from the date of the preceding order up to the January term, 1829.

STATE OF KENTUCKY, sct.

I, Alexander H. Rennick, clerk of the general court for the state aforesaid, do certify, that the foregoing five pages and the above contain a full, true, and complete transcript of the record and proceedings had in the suit of Henry Banks, complainant, against John Watts and the unknown heirs of Ferdinand O'Neal, defendants, as wholly as the same remains in my office; and I further certify, that said suit is still on the docket of said general court. In testimony whereof, I have hereunto set my hand and affixed the seal of said court: done at Frankfort this 11th day of June, A. D. 1829, and in the 52d year of American independence.

A. H. RENNICK, *C. G. C.*

STATE OF KENTUCKY, sct.

I, Daniel Mayes, one of the circuit judges in and for the State of Kentucky, do hereby certify, that Alexander H. Rennick, whose name is subscribed to the foregoing certificate, is clerk of the general court for the state aforesaid, and that his said certificate is in due form of law. I do further certify, that, by the constitution of said court, there is no presiding judge or chief justice thereof, but that, by the laws of Kentucky, any one of the circuit judges may preside and hold said court. Given under my hand and seal this 14th June, 1829.

DAN. MAYES.

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United States of America, Seventh Circuit, District of Kentucky, set.

John Watts *against* John M. Powell, Francis Powell, Robert Powell, Margaret P. Bledsoe, formerly Margaret P. Powell, wife of Joseph Bledsoe, Nancy T. Rickets, wife of Caleb H. Rickets, formerly Nancy T. Powell, Mary B. Jones, wife of William Jones, formerly Mary B. Powell, and William M. Powell, and Susan W. Powell, Carr and Fanny his wife, heirs and representatives of Robert Powell, deceased. *In Chancery.*

This cause came on to be heard upon the bill, answer, depositions, and exhibits filed, and the agreement of the parties, and the court being fully advised, do decree and order, that the defendants, the heirs, &c., of said Robert Powell, do, on or before the first day of June next, by deed with special warranty against themselves, their heirs, and all persons claiming under them, convey to the complainant six hundred and eight acres of land, be the same more or less, it being part of Robert Powell's survey, No. 503, of 865 acres on the Scioto river, in the county of Ross and State of Ohio, and bounded as followeth, to wit: beginning at a stake on the west bank of the river, where a Spanish oak, hickory, and sugar tree, upper corner to the survey on the river, once stood; thence south forty-three degrees east two hundred and ninety-three poles, to where two sugar trees and a walnut, back corner to said survey, once stood; thence, with a line of said survey, south eighty degrees east, to the lower line of Ferdinand O'Neal's entry, No. 509, of 1,000 acres, as decreed to John Watts by the Supreme Court of the United States; thence with said line, and binding thereon, about north fifty degrees and thirty minutes east to the lower corner on the river of said entry, as decreed aforesaid; thence up the river and binding thereon to a large Spanish oak and white oak, corner on the river to said Powell's survey; thence north eighty degrees west one hundred and seventy-four poles to three ironwoods and sugar tree on the bank of the river, corner to said survey; thence up the river, and binding thereon, to the place of beginning. It is further decreed and ordered, that the complainant pay the costs of this suit, except the fee taxed to and for the counsel of the defendants. If the defendants, or any of them, shall fail to make the deed, agreeably to this decree, the court appoint John H. Hanna commissioner, in pursuance to the will and practice of this court and the statute of the State of Kentucky, commissioner to convey the land agreeably to this decree.

United States of America, Seventh Circuit, District of Kentucky, set.

I, John H. Hanna, clerk of the seventh circuit court of the United States of America, in and for the district of Kentucky, do hereby certify, that the foregoing decree is truly transcribed from the records of my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 24th day of November, A. D. 1826, and in the 51st year of the American independence.

JOHN H. HANNA, [SEAL.]

UNITED STATES OF AMERICA.

I, Robert Trimble, an associate justice of the Supreme Court of the United States, do hereby certify, that John H. Hanna is clerk of the seventh circuit court of the United States, in and for the Kentucky district; that full

faith and credit is and ought to be given to his official attestations, and that his certificate is in due form of law.

Given under my hand this 24th day of November, 1826.

ROB. TRIMBLE.

It is admitted that a deed of conveyance has been duly executed by the commissioner appointed by the court, in pursuance of the aforegoing decree of the United States circuit court for the district of Kentucky.

B. G. LEENARD,
Sol. for the resp'dts.

STATE OF GEORGIA, *7th July*, 1788.

Know all men by these presents, that I, Ferdinand O'Neal, Esq., of the State of Georgia, for and in consideration of the sum of two hundred and twenty-five pounds sterling, to me in hand paid, the receipt of which I do hereby acknowledge, have bargained, sold, and made over unto Thomas Washington, Esq., a tract of land containing four thousand five hundred acres, being my bounty for my services as captain in the Virginia line, which land was to be run in the officers' reserve.

Mr. Wm. Call was empowered to have the above land run for me, and is now to be delivered up to Thomas Washington or order.

F. O'NEAL.

Witness, THOMAS STORER.

I do hereby give full power and authority to Thomas Shields, his heirs and assigns, to dispose of the within lands. Witness my hand this 24th November, 1790.

T. WASHINGTON.

I do hereby sell, alien, convey, and make over the aforesaid land to Henry Banks, his heirs, executors, administrators, and assigns, being for value received, and direct that titles be made out to him for the same.

Witness my hand and seal at Richmond, March 1, 1791.

THOMAS SHIELDS, [SEAL.]

Witness, JOHN WATSON,
LUTHER STODDARD.

STATE OF KENTUCKY, sct.

I, Alexander H. Rennick, clerk of the general court for the state aforesaid, do hereby certify, that the foregoing contains a true copy from the original which is on file in my office, in the suit of Henry Banks, complainant, against John Watts and the unknown heirs of Ferdinand O'Neal, deceased, defendants.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court; done at Frankfort this 19th day of May, A. D. 1829, and in the 52d year of the American independence.

A. H. RENNICK, *C. G. C.*, [SEAL.]

STATE OF KENTUCKY, FRANKLIN COUNTY, sct.

I, Daniel Mayes, one of the circuit judges in and for the State of Kentucky, do hereby certify, that Alexander H. Rennick, who made the foregoing certificate, is clerk of the general court for said state, and that his

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said certificate is in due form of law; I do further certify of said general court there is no presiding judge or chief justice, but that each circuit judge in the state may by law hold said court, and preside therein; any one of the circuit judges, or any greater number of them, constituting said court. Given under my hand and seal at Frankfort this 19th May, 1829.

DAN. MAYES, [SEAL.]

I, Robert Powell, of Adair county in the State of Kentucky, one of the children and heirs of Captain Robert Powell, of the said state, deceased, do hereby certify, that said Powell died intestate, leaving the following, who were his only surviving children and only heirs, to wit: John W. Powell, Robert Powell, William M. Powell, Susan W. Powell, Margaretta Bledsoe, (formerly Powell,) wife of Joseph Bledsoe, Mary B. Jones, (formerly Powell.) wife of William Jones, and Frances Kerr, (formerly Powell,) wife of John B. Kerr. Given under my hand at Chillicothe, June 28th, 1825.

ROBERT POWELL.

Witnesses, B. G. LEEANARD,
PETER PATTERSON.

STATE OF OHIO, ROSS COUNTY, ss.

Personally appeared before me, the subscriber, a justice of the peace in and for the said county, the above named Robert Powell, who, being duly sworn, doth say, that the matters and things set forth in the foregoing certificate and affidavit are true, and further saith not. Given under my hand and seal this 28th June, 1825.

PETER PATTERSON, *J. P.* [SEAL.]

I, Robert Powell, one of the sons and heirs of Captain Robert Powell, deceased, and to whom survey No. 508, of 865 acres on the Scioto river, was granted by patent, on the 4th day of November, 1818, do hereby certify, that since the said patent was granted, and previous to the 28th day of June, 1825, that Nancy T. Rickets, (formerly Nancy T. Powell,) has died without issue or leaving any legal heirs, other than her brothers and sisters, the children of the said Captain Robert Powell, deceased. (First having instituted the words and figures, "and previous to the 28th day of June, 1825." Given under my hand at Chillicothe the 3d day of April, 1827.

ROBERT POWELL.

Test, JAMES MILLER,
MATTHEW BONNER.

THE STATE OF OHIO, ROSS COUNTY, ss.

Before me, the undersigned justice of the peace, came Robert Powell and made oath that the above certificate, to which his name is signed, contains the truth. Given under my hand and seal the 3d day of April, 1827.

JAMES MILLER, *J. P.*, [SEAL.]

COL. JOHN WATTS:

SIR: Mr. W. Lamb, of this place, has assigned to me all his interest in a certain article of agreement, for the conveyance to the said Lamb of certain out lots in Chillicothe and a tract adjacent thereto, executed by you to the said Lamb, and you having failed to comply with your contract therein, I have brought suit on the said article in the name of Lamb for my own

faith and credit is and ought to be given to his official attestations, and that his certificate is in due form of law.

Given under my hand this 24th day of November, 1826.

ROB. TRIMBLE.

It is admitted that a deed of conveyance has been duly executed by the commissioner appointed by the court, in pursuance of the aforegoing decree of the United States circuit court for the district of Kentucky.

B. G. LEENARD,
Sol. for the resp'dts.

STATE OF GEORGIA, *7th July*, 1788.

Know all men by these presents, that I, Ferdinand O'Neal, Esq., of the State of Georgia, for and in consideration of the sum of two hundred and twenty-five pounds sterling, to me in hand paid, the receipt of which I do hereby acknowledge, have bargained, sold, and made over unto Thomas Washington, Esq., a tract of land containing four thousand five hundred acres, being my bounty for my services as captain in the Virginia line, which land was to be run in the officers' reserve.

Mr. Wm. Call was empowered to have the above land run for me, and is now to be delivered up to Thomas Washington or order.

F. O'NEAL.

Witness, THOMAS STORER.

I do hereby give full power and authority to Thomas Shields, his heirs and assigns, to dispose of the within lands. Witness my hand this 24th November, 1790.

T. WASHINGTON.

I do hereby sell, alien, convey, and make over the aforesaid land to Henry Banks, his heirs, executors, administrators, and assigns, being for value received, and direct that titles be made out to him for the same.

Witness my hand and seal at Richmond, March 1, 1791.

THOMAS SHIELDS, [SEAL.]

Witness, JOHN WATSON,
LUTHER STODDARD.

STATE OF KENTUCKY, sct.

I, Alexander H. Rennick, clerk of the general court for the state aforesaid, do hereby certify, that the foregoing contains a true copy from the original which is on file in my office, in the suit of Henry Banks, complainant, against John Watts and the unknown heirs of Ferdinand O'Neal, deceased, defendants.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court; done at Frankfort this 19th day of May, A. D. 1829, and in the 52d year of the American independence.

A. H. RENNICK, *C. G. C.*, [SEAL.]

STATE OF KENTUCKY, FRANKLIN COUNTY, sct.

I, Daniel Mayes, one of the circuit judges in and for the State of Kentucky, do hereby certify, that Alexander H. Rennick, who made the foregoing certificate, is clerk of the general court for said state, and that his

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said certificate is in due form of law; I do further certify of said general court there is no presiding judge or chief justice, but that each circuit judge in the state may by law hold said court, and preside therein; any one of the circuit judges, or any greater number of them, constituting said court. Given under my hand and seal at Frankfort this 19th May, 1829.

DAN. MAYES, [SEAL.]

I, Robert Powell, of Adair county in the State of Kentucky, one of the children and heirs of Captain Robert Powell, of the said state, deceased, do hereby certify, that said Powell died intestate, leaving the following, who were his only surviving children and only heirs, to wit: John W. Powell, Robert Powell, William M. Powell, Susan W. Powell, Margaretta Bledsoe, (formerly Powell,) wife of Joseph Bledsoe, Mary B. Jones, (formerly Powell,) wife of William Jones, and Frances Kerr, (formerly Powell,) wife of John B. Kerr. Given under my hand at Chillicothe, June 28th, 1825.

ROBERT POWELL.

Witnesses, B. G. LEEANARD,
PETER PATTERSON.

STATE OF OHIO, ROSS COUNTY, ss.

Personally appeared before me, the subscriber, a justice of the peace in and for the said county, the above named Robert Powell, who, being duly sworn, doth say, that the matters and things set forth in the foregoing certificate and affidavit are true, and further saith not. Given under my hand and seal this 28th June, 1825.

PETER PATTERSON, *J. P.* [SEAL.]

I, Robert Powell, one of the sons and heirs of Captain Robert Powell, deceased, and to whom survey No. 508, of 865 acres on the Scioto river, was granted by patent, on the 4th day of November, 1818, do hereby certify, that since the said patent was granted, and previous to the 28th day of June, 1825, that Nancy T. Rickets, (formerly Nancy T. Powell,) has died without issue or leaving any legal heirs, other than her brothers and sisters, the children of the said Captain Robert Powell, deceased. (First having instituted the words and figures, "and previous to the 28th day of June, 1825." Given under my hand at Chillicothe the 3d day of April, 1827.

ROBERT POWELL.

Test, JAMES MILLER,
MATTHEW BONNER.

THE STATE OF OHIO, ROSS COUNTY, ss.

Before me, the undersigned justice of the peace, came Robert Powell and made oath that the above certificate, to which his name is signed, contains the truth. Given under my hand and seal the 3d day of April, 1827.

JAMES MILLER, *J. P.*, [SEAL.]

COL. JOHN WATTS:

SIR: Mr. W. Lamb, of this place, has assigned to me all his interest in a certain article of agreement, for the conveyance to the said Lamb of certain out lots in Chillicothe and a tract adjacent thereto, executed by you to the said Lamb, and you having failed to comply with your contract therein, I have brought suit on the said article in the name of Lamb for my own

use. I am now ready to yield up to you possession of the premises confined in the said agreement, which shall be done at any time, and to any person to whom you may give authority; the said article bears date 15th November, 1815.

J. WADDLE.

Dated 4th December, 1824.

I do certify, that I served a correct copy of the above on Col. John Watts, in the house of Mr. John Watson, 4th December, 1824.

THOMAS ORR.

United States Circuit Court, Seventh Circuit, Ohio District.

JOHN WATTS *vs.* WADDLE AND LAMB.

It is admitted that a notice, a copy of which is above, was served on the complainant at the time and place mentioned in the said certificate of Thomas Orr, and that this matter and document may be read in evidence on the hearing of this cause.

W. CREIGHTON, Jun., *for comp't.*

1st July, 1829.

The depositions of Thomas Scott and Henry Johnson, taken before Thomas Orr, a justice of the peace in and for the county of Ross, in the State of Ohio, on Tuesday, the seventh day of July, in the year eighteen hundred and twenty-nine, at my office in the town of Chillicothe, by agreement of parties, both parties being present, by their counsel, to be used in evidence by the respondents, in a suit in chancery now pending and undecided in the circuit court of the United States for the seventh circuit and district of Ohio, wherein John Watts is complainant, and John Waddle and William Lamb are respondents.

The said Thomas Scott, being by me first duly cautioned and sworn according to law, deposeth and saith:

Question by respondents' counsel. Was you solicitor and counsel for the respondents in the suits of Watts against Massie and others, in the United States circuit court for Ohio district?

Answer. I was for a number of them, but I think not all.

Question by same. Did not a number of the respondents in that suit, after the rendition of the interlocutory decree, settle with Col. Watts?

Answer. I believe they did.

Question by same. Captain Lamb was amongst that number, was he?

Answer. I am under the impression that he was among that number.

Question by same. Did not those who held out consider themselves unfairly treated by those who compromised with Col. Watts?

Answer. I believe they did; the principal part did, if not the whole.

Question by same. Has not property depreciated since 1818, and, if so, how much?

Answer. My impression now is, that property was, in 1818, worth more than double what it is now.

Question by complainant's counsel. Whether, after the interlocutory decree, the persons mentioned in your former answer as compromising with Col. Watts, did they purchase from him?

Answer. I cannot state precisely: they came to some kind of a compro-

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mise; I was not present at any of the settlements; I only speak from information I received about that time.

Question by same. Do you know if Captain Lamb purchased of Col. Watts, and, if so, what did he give?

Answer. I do not know, except from information.

Question by same. Did you know if Captain Lamb received of the individuals, under whom he claimed compensation for the land, the same he paid to Watts?

Answer. I do not know that he received from all, but I am under the impression that some one or more, under whom he claimed title, did pay him; I believe Mr. Evans was one, but I am not certain.

Question by same. What was the reason that those who held out blamed Captain Lamb for compromising with Col. Watts?

Answer As well as I now recollect, it was that it tended to embarrass the defence of the others, and to give color to the title set up by Col. Watts.

Question by same. Was it not in consequence of increasing the costs of those who held out?

Answer. It might have been one of the causes; and further this deponent saith not.

THOMAS SCOTT.

Sworn to and subscribed before me, this 7th day of July, in the year 1829.

THOMAS ORR, *J. P.*, [SEAL.]

And the said Henry Johnston, being by me duly cautioned and sworn according to law, deposeth and saith:

Question by respondents' counsel. How much do you think the out lots Captain Lamb bought from Col. Watts have depreciated since 1818?

Answer. I think they have depreciated one half, if not a little more.

Question by same. Was not fifty dollars an acre for those lands, in 1818, considered a good bargain?

Answer. About the time Captain Lamb got them I should consider that a fair price. I think that the way property was selling at that time, I should not have considered it high; probably not as high as some others.

Question by same. How much did you give for an out lot to Col. Watts?

Answer. Four hundred dollars was the price of the lot; the purchase was made in 1815 or 1816, my lot is adjoining the in lots, except the street the nearest of Captain Lamb's lots in the second tier of out lots.

Question by same. Did you know of any land adjacent to town about that time selling high?

Answer. I understood that some land adjacent to town sold for one hundred dollars an acre, and that some of the Watts tract, about half a mile or more from Captain Lamb's and from the out lots, sold to Mr. Carlisle for, I believe, forty-seven and one half dollars an acre; I am under the impression it was twenty or thirty acres.

Question by complainant's counsel. Do you recollect what Captain Lamb gave Col. Watts for those lots?

Answer. I understood fifty dollars an acre; I believe Captain Lamb told me so himself.

Question by same. Did you understand that the amount of money that Captain Lamb received from them that he purchased of paid Col. Watts?

Answer. I understood from Captain Lamb, that he had received from some of them, but not all, not as much as would pay Col. Watts.

Question by same. Was any part of the land Captain Lamb purchased from Col. Watts in timber at the time he purchased?

Answer. There was one lot or a part of two lots in sugar trees, the under brush cleared out, and probably used as a sugar camp; there was, I think, as much as five or six acres in timber.

Question by same. Do you know whether that timber is cut off and carried away by Captain Lamb, and when?

Answer. The timber is cut off, except a few trees, within a few years; a part of it has been taken away within one year.

Question by same. Does the canal, as located, run through those lots?

Answer. It does not; one line did run through them, but that has been abandoned.

Question by same. Has Warren Barnes purchased any out lots, and, if so, what did he give, and what time did he purchase?

Answer. He has purchased three or four lots, and I think he told me he gave forty dollars an acre; I suppose it must be something like four years since he began to improve; I think he purchased in 1824 or 1825.

Question by same. Are not those lots that he purchased more remote than Captain Lamb's?

Answer. They are more remote than some of Captain Lamb's, and some of Captain Lamb's are the same distance off with W. Barnes's.

Question by same. What would you think Captain Lamb's lots altogether, with the four and a third acres, worth at this time?

Answer. I should consider that if I wanted barely to farm the ground, I would not give more than twenty dollars an acre, but the situation might render it more valuable, and it may be worth twenty-five dollars an acre.

Question by same. What would you consider those lots worth as out lots appended to the town?

Answer. They are singly worth more than twenty-five dollars an acre.

Question by same. Was you not induced to give more for your lot in consequence of its fronting the street?

Answer. I was; I considered it more valuable on that account.

Question by respondents' counsel. Does not Captain Lamb use those lots for farming purposes solely?

Answer. He does, and, as far as I know, has always used them for farming.

Question by same. Is not the lots bought by Warren Barnes on the same street on which your lot is, and is the soil not richer than Captain Lamb's lots?

Answer. They are on the same street, but farther off; the lots are rather richer than Captain Lamb's lot.

Question by complainant's counsel. Is not property situated near Paint creek considerably less desirable as a residence than property on Main street?

Answer. I should consider it so.

Question by same. What did you hear the owners of out lots ask for them?

Answer. I heard Captain Turner say he had offered them for three thousand dollars, but he would not take less than six.

Question by respondents' counsel. Do you not consider Captain Turner extravagant in his estimate?

Answer. I would consider it so.

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Question by same. Are not those lots situated on Paint street and on Mulberry street, and is the canal not located on them, and are not all the stores in town, except one, on Paint street?

Answer. All the dry good stores, except Barr and Campbell's, are on Paint street; the lots are on Paint street and Mulberry street, and the canal is located on them.

Question by complainant's counsel. Are not the lots purchased by Warner Barnes lying parallel to the said lots of Turner, and are they not about twenty-nine poles distant on the east?

Answer. They are; and further he saith not.

HENRY JOHNSTON.

Sworn to and subscribed before me, this 7th day of July, in the year 1829.

THOMAS ORR, *J. P.*, [SEAL.]

Adjourned until to-morrow morning nine o'clock, by consent.

THOMAS ORR, *J. P.*

Chillicothe, 8th July, 1829. The parties met pursuant to adjournment.

And the said Allen Latham, being by me first duly cautioned and sworn according to law, deposeth and saith, on

Question by respondents' counsel. Are you acquainted with the family of the late Captain Robert Powell?

Answer. I believe I am acquainted with all of them, except Mrs. Margaret Bledsoe and her husband; I have never seen either of them.

Question by same. Did you understand by the family that one of them was married to a Mr. Bledsoe?

Answer. I did; Joseph Bledsoe, I think.

Question by same. Is the wife of Captain Powell alive?

Answer. I think it is about eight years since I was at the house of the son of Captain Robert Powell; at that time Mrs. Powell was alive, the reputed widow of the late Captain Powell; I have heard of her being alive three or four years ago, and that she had an agent or assignee here claiming dower.

Question by same. Did you not understand from the family that this was the widow of Captain Robert Powell?

Answer. I did, both from her family and the neighbours about; I spent a few days there.

Question by same. Have you since heard of her death?

Answer. I have not; and further saith not.

ALLEN LATHAM.

Sworn to and subscribed before me, this 8th day of July, in the year 1829.

THOMAS ORR, *J. P.*, [SEAL.]

THE STATE OF OHIO, ROSS COUNTY, set.

I, Thomas Orr, a justice of the peace in and for the county aforesaid, do hereby certify, that the aforegoing depositions of Thomas Scott, Henry Johnston, and Allen Latham, were taken before me at my office, at the times in the captions mentioned; and also that I am not of counsel for either party, or interested in said suit; and further, that the whole of the aforegoing is in my hand writing, except the signatures of the deponents. In tes-

timony whereof, I have hereunto set my hand and seal at Chillicothe, this eighth day of July, in the year eighteen hundred and twenty-nine.

THOMAS ORR, *J. P.*, [SEAL.]

The deposition of Matthew Bonner, taken before me, Thomas Orr, a justice of the peace in and for the county of Ross, on Wednesday, the eighth day of July, in the year eighteen hundred and twenty-nine, at my office in the town of Chillicothe, by agreement of parties, both parties being present by their counsel, to be used in evidence by the complainant in a suit now pending and undecided in the circuit court of the United States for the seventh circuit and district of Ohio, in chancery sitting, wherein John Watts is complainant and John Waddle and William Lamb are respondents.

The said Matthew Bonner, being by me first duly cautioned and sworn according to law, deposeth and saith, on

Question by complainant's counsel. Have you lived with Mr. Wallace since early in the year 1818?

Answer. I have lived with Mr. Wallace since the first week in March 1818.

Question by same. Was you present at repeated conversations between Mr. Wallace and Captain Lamb, when the said Lamb's purchase of out lots and land from Col. Watts was the subject of conversation?

Answer. I think within the first two or three years after I came to live with Mr. Wallace, Captain Lamb came to Mr. Wallace's office two or three times, I think certainly twice, and said, that he had either lost or mislaid the title bond from Col. Watts, and wanted to know if Mr. Wallace had any memorandum by which he would know the number of the lots.

Question by same. Did not Captain Lamb, in one or more of those conversations, and some time between the years 1822 and 1824, state that he had lost the title bond given to him by Watts for these lots and land, and at the same time expressed his fears of losing this property in the event of Col. Watts's death?

Answer. I do not know so much about his fears; he expressed a wish to have something to shew he had purchased the lots; this might have been soon after I came to Mr. Wallace, or three or four years after, I do not recollect.

Question by same. Did not Mr. Wallace tell Captain Lamb that he need not entertain any fears so long as he (Wallace) lived, as he was the very best witness between him (Lamb) and Watts, as he drew the title bond and had seen the money paid: and, moreover, that as Watts had given him full powers to sell and convey, he (Wallace) would, if Captain Lamb desired it, renew the title bond, or give to him such evidence as would enable him to obtain a deed whenever he might wish it?

Answer. I recollect Mr. Wallace gave Captain Lamb assurances that he need not be uneasy, as he saw the money paid and had drawn the title bond; there was a long conversation between them to that effect.

Question by same. Did you ever hear Captain Lamb, at any of the conversations between Mr. Wallace and him, express any desire to obtain a deed for those lots and land bought from Watts?

Answer. I did not.

Question by respondents' counsel. Did Mr. Wallace profess that he had the ability to make a good title to those lots and land to Captain Lamb?

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Answer. I do not think there was any thing said about deed.

MATTHEW BONNER.

Sworn and subscribed before me, this 8th day of July, 1829.

THOMAS ORR, *J. P.*, [SEAL.]

THE STATE OF OHIO, ROSS COUNTY, set.

I, Thomas Orr, a justice of the peace in and for the county aforesaid, do hereby certify, that the aforegoing deposition of Matthew Bonner was taken before me at the time and place in the caption mentioned, and also, that I am not of counsel for either party or interested in said suit; and further, that the whole of the aforegoing is in my hand writing, except the signature of the deponent.

In testimony whereof, I have hereunto set my hand and seal at Chillicothe, this eighth day of July, in the year eighteen hundred and twenty-nine.

THOMAS ORR, *J. P.*, [SEAL.]

And thereupon the following decree was entered in the premises aforesaid, to wit:

JOHN WATTS, complainant,
versus
JOHN WADDLE and WILLIAM LAMB, respondents. } *In Chancery.*

This cause was argued at the last term, and the bill, answers, replications, exhibits, and testimony, but the court took the same under advisement; and now, after consideration, the court are of opinion, that the law and equity of the case are with the respondents. It is, therefore, ordered and decreed, that the injunction heretofore granted in the cause be dissolved, and the bill of complaint dismissed. And it is further ordered, that the said complainant pay the costs of this suit. And thereupon the complainant prayed an appeal from the said decree to the Supreme Court of the United States, pursuant to the act of Congress in such case made and provided; and it appearing to the court that the sum in dispute exceeds two thousand dollars in amount, the court do grant said prayer, and allow the appeal accordingly, on condition of his perfecting bond and security to the acceptance of the district judge, in double the amount of the judgments enjoined; such bond to be filed within thirty days from this time, and, in the mean time, execution is restrained; and, by consent of parties, it is agreed, that if the bond of Cadwallader Wallace, of Ross county, be filed in the clerk's office of this court within ten days from this time, conditioned to pay the amount of said judgment and costs, the said injunction shall not be perpetuated, it shall be deemed a compliance with the order and allowance of appeal.

And afterwards, to wit, on the twelfth day of January, in the year of our Lord one thousand eight hundred and thirty, and within the time specified in said aforegoing decree, the complainant caused to be filed in the office of the clerk of the court aforesaid the following bond, to wit:

Know all men by these presents, that I, Cadwallader Wallace, of Chillicothe, Ohio, am held and firmly bound unto John Waddle and William Lamb, of the same place, in the sum of twenty thousand dollars, for the

payment whereof I bind myself and my heirs firmly by these presents; sealed with my seal, and dated this 9th day of January, A. D. 1830.

Whereas, at the December term of the United States circuit court for the district of Ohio, in the year eighteen hundred and twenty-nine, upon the hearing and consideration of a certain suit in chancery, pending in said court, wherein John Watts was complainant and John Waddle and William Lamb were defendants, it was by the said court ordered and decreed, that the bill of the said John Watts should be dismissed, and that a certain injunction, heretofore granted him in the said cause, should be dissolved, and from which said decree the said John Watts prayed and was allowed an appeal to the Supreme Court of the United States, pursuant to the act of Congress in such case made and provided, as by reference to the proceedings of said circuit court will fully and at large appear: Now therefore, the condition of the above obligation is such, that in case the aforesaid bill should be ultimately dismissed, and said injunction finally dissolved, then, if he, the said John Watts or said Cadwallader Wallace do, and shall faithfully pay off and discharge the judgment at law now restrained by said injunction, and in said proceedings particularly mentioned, and do and shall also pay all costs now or hereafter adjudged or decreed against said John Watts in the matter aforesaid, the said obligation to be void, otherwise the same to be and remain in full force and virtue.

CADWALLADER WALLACE, [SEAL.]

Witness, WM. KEY BOND.

The United States of America, District of Ohio, set.

I, William Miner, clerk of the seventh circuit court of the United States, in and for the district of Ohio aforesaid, do hereby certify the aforegoing to be a true transcript of the record, decree, and proceedings thereon, in a suit determined in said court, in which John Watts was complainant and John Waddle and William Lamb respondents, as the same now stands among the files of my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said ~~court~~, this 12th day of March, in the year of our Lord one thousand eight hundred and thirty, and of the independence of the United States the fifty-fourth.

WILLIAM MINER, *Clerk*, [SEAL.]

SUPREME COURT OF THE UNITED STATES.

No. 36.

THOMAS LELAND ET AL., PLAINTIFFS,

VERSUS

DAVID WILKINSON.

ON A CERTIFICATE OF A DIVISION IN OPINION OF THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES FOR THE RHODE ISLAND DISTRICT.

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